

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

STANLEY LOUIS LEFFEL,

Defendant-Appellant.

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UNPUBLISHED

January 26, 2001

No. 217844

Genesee Circuit Court

LC No. 98-002437-FH

Before: Markey, P.J., and Whitbeck and J. L. Martlew\*, JJ.

PER CURIAM.

Defendant appeals by right from a three-to-ten-year sentence imposed for receiving and concealing stolen property over \$100, MCL 750.535; MSA 28.803, following an adjudication that he had violated the terms of his probation. We affirm.

The court found that defendant violated the terms of his probation in that he absconded from supervision and thereafter failed to report and that he assaulted a parole officer. Defendant contends that the court abused its discretion in revoking his probation because the evidence did not support a finding that he intentionally assaulted the officer. We disagree.

“A revocation proceeding has two steps: (1) a factual determination that the violations charged in the notice have occurred; and (2) a discretionary determination that the proven charges warrant revoking probation.” *People v Taylor*, 104 Mich App 514, 516; 305 NW2d 251 (1981). “The sole question on review of the finding of violation of probation is whether the trial judge could find by a preponderance of the evidence that the probation order had been violated.” *People v Billy Williams*, 66 Mich App 67, 71; 238 NW2d 407 (1975).

The court found that defendant’s bodily contact with the officer was an intentional act done to effectuate his escape and was an assault. Those findings were supported by the officer’s testimony that although there was room for defendant to step around him, defendant deliberately pushed him out of the way when he turned to flee. This clearly violated defendant’s probation order, which prohibited him from committing “any assaultive, abusive, threatening, or

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\* Circuit judge, sitting on the Court of Appeals by assignment.

intimidating behavior.” Defendant’s intent to injure the officer was manifest from his conduct. While defendant disputes the officer’s credibility, weighing the witnesses’ testimony and assessing their credibility was a duty of the court in its role of factfinder; because the trial court is in the best position to judge credibility, this Court will not substitute its judgment on this issue. *People Martin*, 199 Mich App 124, 125; 501 NW2d 198 (1993); *People v Snell*, 118 Mich App 750, 755; 325 NW2d 563 (1982). The evidence supported the court’s finding that defendant violated the terms of his probation by committing assaultive behavior. Therefore, the court did not abuse its discretion in revoking defendant’s probation.

We affirm.

/s/ Jane E. Markey  
/s/ William C. Whitbeck  
/s/ Jeffrey L. Martlew